

ATTACHMENT 1

In re National Prescription Opiate Litigation: MDL 2804
Summary Sheet of Concise Issues Raised

Opposition Name: Plaintiffs' Memorandum of Law in Opposition to Non-RICO Small Distributors' Motion for Summary Judgment Based on their *De Minimis* Status (DKT # 1879)

Opposing Parties: Plaintiffs Summit County and Cuyahoga County

Plaintiffs submit this memorandum in opposition to the summary judgment motion filed by Distributor Defendants Anda, Inc., H.D. Smith, Henry Schein, Inc., and Prescription Supply Inc., and affiliated entities. Despite a relatively small market share, these Defendants' conduct cannot be legitimately described as *de minimis*, as they claim in their Motion for Summary Judgment. Rather, the evidence reveals that each of the Defendants shipped massive quantities of opioids into Summit and/or Cuyahoga Counties. Each of their Suspicious Order Monitoring programs ("SOMs") was wholly deficient, allowing compliance to take a backseat to sales. Because of their deficient SOMs programs, each of the Defendants shipped opioids into Summit and Cuyahoga Counties which should have been flagged as suspicious. These shipments resulted in adverse consequences in Summit and/or Cuyahoga Counties. In many cases, the Defendants have admitted their misconduct and responsibility.

Substantial evidence, in the form of documents, depositions, and expert testimony, shows that a genuine dispute of material fact exists as to each of the Defendants' causal connection to the harms suffered by Summit and Cuyahoga Counties, and therefore Defendants' Motion should be denied.

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Response Date: July 31, 2019
Reply Date: August 16, 2019